

**TITLE 16**  
**BUREAU OF AUTOMOTIVE REPAIR**

**NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING**  
**CONCERNING**

**Vehicle Registration Amnesty Program**

**NOTICE IS HEREBY GIVEN** that the Department of Consumer Affairs/Bureau of Automotive Repair (hereinafter “Bureau” or “BAR”) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at hearing to be held at the following location on the following date:

**NORTHERN CALIFORNIA**

Monday, August 22, 2011 at 2:00pm  
Department of Consumer Affairs  
Hearing Room  
1625 North Market Blvd., S-102  
Sacramento, CA 95834

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be **received by the Bureau at its office no later than 5:00 p.m. on August 22, 2011**, or must be received by the Bureau at the above referenced hearing. **Comments sent to persons or addresses other than those specified under Contact Person, or received after the date and time specified above, regardless of the manner of transmission, will be included in the record of this proposed regulatory action, but will not be summarized or responded to.** The Bureau, upon its own motion or at the request of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

**AUTHORITY AND REFERENCE:**

Pursuant to the authority vested by Section 9882 of the Business and Professions Code, and to implement, interpret or make specific Sections 4750.1 and 9565 of the Vehicle Code and 44012 of the Health and Safety Code, the Bureau is proposing to adopt the following changes to Article 5.5 of Chapter 1, Division 33, Title 16, California Code of Regulations.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

**INTRODUCTION:**

The Bureau of Automotive Repair (BAR) within the Department of Consumer Affairs (DCA) is responsible for the administration and implementation of the Smog Check Program. To ensure uniform and consistent vehicle inspections, BAR licenses stations and technicians and certifies Smog Check inspection equipment. In addition, BAR contracts with a neutral third party to provide Referee services. The Referee provides motorists with special inspection services that are not available at ordinary Smog Check stations. In part, these services include the inspection of Specially Constructed Vehicles (SPCNS).

#### **BACKGROUND:**

This proposed regulatory action addresses the requirements of Assembly Bill (AB) 2461 (Emmerson, Chapter 388, Statutes of 2010) and AB 619 (Emmerson, Chapter 235, Statutes of 2008), which provide for a registration amnesty program to be established by the Department of Motor Vehicles (DMV). Specifically, this regulation helps motorists who own SPCNS complete the Referee inspection process.

As part of this legislation, Section 9565 of the Vehicle Code specifies that a SPCNS shall be issued a certificate of compliance if the vehicle meets the appropriate tailpipe emissions requirements. Vehicles participating in the registration amnesty program are assigned testing requirements based on model year. The model year for a vehicle is determined by the calendar year in which the vehicle owner has applied for the amnesty program.

This regulation identifies the Smog Check inspection procedures for amnesty vehicles as the tailpipe emissions test requirements specified in Section 3340.42 of the California Code of Regulations. The tailpipe emissions requirements are, in part, based on the vehicle model-year as assigned by the DMV. Under this regulation the Referee would collect a \$160 inspection fee upon initial application for the registration amnesty program, in accordance with Section 4750.1 of the Vehicle Code. Due to the unique inspection procedures associated with these vehicles and special software requirements to perform these inspections, all subsequent inspections for these vehicles will be preformed at the Referee.

Referee stations use special test software that is not available in ordinary Smog Check stations. Software changes needed to facilitate these special inspections in ordinary stations would be immensely costly and impractical.

#### **EFFECT OF REGULATORY ACTION:**

The Bureau of Automotive Repair (BAR) is proposing the following amendments to existing regulations:

- I. Vehicle Registration Amnesty Program:** Implement tailpipe emissions test requirements specified in Section 3340.42 of the California Code of Regulations for vehicles participating in the registration amnesty program.

## **FISCAL IMPACT ESTIMATES**

### **FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES AND COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:**

No cost or savings in federal funding to the state.

Individuals with vehicles that have been registered previously or classified incorrectly may choose to participate in the registration amnesty program to correct the deficiency. Upon initial application for the registration amnesty program, the state contracted Referee will charge the participant a \$160 fee for the inspection. This fee will offset all costs associated with this initial inspection at the Referee.

### **NONDISCRETIONARY COSTS/SAVINGS TO LOCAL AGENCIES:**

None.

### **LOCAL MANDATE:**

None.

### **COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH GOVERNMENT CODE SECTIONS 17500-17630 REQUIRE REIMBURSEMENT:**

None.

### **BUSINESS IMPACT:**

BAR has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Referee inspection facilities are operated by the Foundation for California Community Colleges (FCCC) under contract with BAR. Existing law requires the Referee to provide for the testing and certification of SPCNS. The vehicle registration amnesty program, which was in effect from January 1, 2010 through December 31, 2010, only received one participant.

BAR expects an increase in the number of consumers participating in the amnesty program because visual and functional tests are not required. In the prior version of the program, visual and functional inspections were required, which most SPCNS could not pass. As a result of these changes BAR expects higher participation in the new amnesty program, which begins July 1, 2011 and ends June 30, 2012. However, actual participation levels cannot be accurately calculated.

### **IMPACT ON JOBS/NEW BUSINESSES:**

BAR has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses currently doing business within the State of California.

### **COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:**

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to BAR are:

1. The proposed regulation implements tailpipe emissions test requirements for participants in the registration amnesty program. The Referee will charge individuals participating in the program a \$160 fee upon application.

Due to limited participation in the last vehicle registration amnesty program BAR expects limited participation. Actual participation levels cannot be precisely calculated.

### **EFFECT ON HOUSING COSTS:**

None.

### **EFFECT ON SMALL BUSINESS:**

BAR has determined that the proposed regulations would not affect small business because this regulation only specifies inspection procedures for the vehicle registration amnesty program.

### **CONSIDERATION OF ALTERNATIVES**

BAR must determine that no reasonable alternative, which it considered or that has otherwise been identified and brought to its attention, would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

### **INITIAL STATEMENT OF REASONS AND INFORMATION**

BAR has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

### **TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or

prior to the hearing upon request from the Bureau of Automotive Repair at 10240 Systems Parkway, Sacramento, California, 95827.

**AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS**

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the persons named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the Web site listed below.

**CONTACT PERSON**

**Inquiries or comments concerning the proposed administrative action may be addressed to:**

Steven Hall  
Bureau of Automotive Repair  
10240 Systems Parkway  
Sacramento, CA 95827  
Telephone: (916) 255-2135  
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**The backup contact person is:**

Greg Garrett  
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10240 Systems Parkway  
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**WEB SITE ACCESS**

Materials regarding this proposal can also be found on the BAR's Web site at [www.smogcheck.ca.gov](http://www.smogcheck.ca.gov).